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# BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

## MAILED

Application Number: 09/883,724
Filing Date: June 18, 2001
Appellant(s): RICHARD ET AL.

MAR 0 9 2007

Technology Center 2100

Robert Popa
For Appellant

## EXAMINER'S ANSWER

This is in response to the appeal brief filed December 22, 2006, appealing from the Office action

mailed July 21, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

A substantially correct copy of appealed claim 9 appears on page A-4 of the Appendix to the appellant's brief. The minor errors are as follows: The status identifier "currently amended," appears to have been inadvertently copied into the Claims Appendix. The Claims Appendix is otherwise correct.

### (8) Evidence Relied Upon

| | | |
|---|---|---|
| 6,418,554 | DELO et al. | 7-2002 |
| 5,742,286 | KUNG et al. | 4-1998 |
| 5,881,236 | DICKEY | 3-1999 |

Non-Final Rejection (10/06/2005) at pp. 2-3 (noting an unchallenged statement of official notice in the Office action mailed January 16, 2004).

### (9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

**(9.1)** Claims 1-4, 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,418,554 (Delo et al.).

As per claim 1, *Delo et al.* discloses:

**associating an executable file from a shared resource on a network with a remote client at the direction of an administrator console on the network** [*e.g.*, Delo at col. 7, lines 61-67 (the administrator uses application deployment editor 78 to select an application package 80, causing an advertise script 82 (a file) to be generated and stored for one or more groups of users or machines in a group policy template object 62 of Active Directory 66) and col. 8, lines 18-58 (executable shortcuts and shell/OLE activation information necessary to launch the application are transferred to the client as part of the advertisement operation)], **the executable file being adapted for controlling a local setup procedure under the form of a low level service which is available in the operating system of the client for local background tasks and routines** [*e.g.*, *Delo* at col. 8, lines 18-58 (advertisement information 88 including shortcuts on the Start Menu and registry entries required for shell and OLE activation are created in

accordance with the advertise script) and col. 11, lines 24-58 (when the user attempts to activate

an advertised application, the operating system 35 communicates with the managed software

installer mechanism 84b to carry out necessary local installation)] **and further being associated**

**with a description contained within a description file present on the shared resource.** [*e.g.*,

*Delo* at col. 8, lines 18-58 (the advertisement information (executable shortcuts and shell/OLE

activation information) is associated with (generated according to) advertise script file 82 (a

description file)); *see also Delo* at col. 6, lines 31-55; col. 8, lines 41-59; and col. 15, lines 27-

48]; and

> **starting said executable file so that it becomes available to said remote client as a**
>
> **local low level service and permits the automatic launching of a local setup procedure in**
>
> **accordance with the contents of said description file** [*E.g.*, *Delo* at col. 8, lines 18-58  (the

managed software installer API 84b (a local low level service) is called when an application is

activated (executed) to install one or more components automatically (and in a manner

transparent to the user) to service the activation request); *Delo* at col. 8, lines 59-64 (advertised

applications appear to be already installed); col. 9, line 62, through col. 10, line 3 (the user

attempts to activate the application, and the MSI mechanism can install the application if it is not

already locally installed); col. 11, lines 24-58 (in particular, lines 50-52 explain that the

installation is "essentially invisible to the requesting user"); *see also Delo* at col. 8, lines 41-59;

col. 15, lines 27-48; and col. 17, lines 30-33].

As per claim 2, *Delo et al.* discloses:

associating an executable file from a shared resource on a LAN with a remote PC client

at the direction of an administrator console on the LAN, the executable file being adapted for

controlling a local setup procedure under the control of an operating system service control

manager and in accordance with a description contained within a description file present on the

shared resource, said executable file receiving the format of an operating system service (see, for

example; col. 6, lines 31-55; and col. 15, lines 27-48); and

starting said executable file so that it becomes available to said PC client as an operating

system service and permits the launching of a local setup procedure within said PC client in

accordance with the contents of said description file (see, for example, col. 15, lines 27-48; and

col. 17, lines 30-33).

As per claims 3, *Delo et al.* further discloses said executable file having an entry point

which is a service entry and which is further registered by said operating system service control

manager with a command line option which refers to said description file (see, for example, col.

17, lines 30-33).

As per claim 4, *Delo et al.* further discloses said description file containing a list of the

installation files required for a local setup procedure plus an additional line defining the

command which is to be entered for executing an unattended setup procedure of said software

application (see, for example, col. 17, lines 30-33; see further, the discussion of the Windows

installer (MSI) APIs, beginning in col. 17, line 41).

As per claim 8, *Delo et al.* discloses:

associating an executable file from a shared resource on a network at the direction of an

administrator console as an operating system service under the control of an operating system

service control manager with a PC client, said executable file controlling the local setup

procedure of a software application in unattended mode in accordance with a description defined

by a description file present on said shared resource (see, for example, col. 6, lines 31-55; and

col. 15, lines 27-48); and

starting said executable file as an operating system service for the purpose of launching

the setup procedure within said PC client (see, for example, col. 15, lines 27-48; and col. 17,

lines 30-33).

As per claim 9, *Delo et al.* discloses:

associating an executable file from shared resources at the direction of an administrator

console, said executable file installed as an operating system service under the control of an

operating system service control manager with a PC client (see, for example, col. 6, lines 31-55;

and col. 15, lines 27-48); and

starting said installed service for the purpose of automatically triggering the execution of

said executable file (see, for example, col. 15, lines 27-48; and col. 17, lines 30-33).


**(9.2)**    Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Delo et al.* in view

of US 5,742,286 (Kung et al.).

As per claim 5, *Delo et al.* fails to expressly disclose a GUI for providing a list of

software applications and a list of clients, with a drag-and-drop mechanism for initiating a

remote setup procedure. However, *Kung et al.* teaches such a GUI and corresponding

functionality in a remote setup environment (see, for example, Figs. 2A-2J, and the associated

text). Therefore, it would have been obvious to one of ordinary skill in the computer art at the

time the invention was made to modify the process of *Delo et al.* to include such a GUI. One

would be motivated to do so to facilitate easier management of such remote installation

procedures.


**(9.3)** Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Delo et al.* in view

of US 5,742,286 (Kung et al.) and US 5,881,236 (Dickey).

As per claim 6, *Delo et al.* fails to expressly disclose such prompting the user for context

information along with password and ID verification. However, *Dickey* teaches such prompting

and verification steps (see, for example, Figs. 3-8, and the associated text). Therefore, it would

have been obvious to one of ordinary skill in the computer art at the time the invention was made

to further modify the process of *Delo et al.* to include such prompting and verification. One

would be motivated to do so to provide additional security in remote installation.


**(9.4)** Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Delo et al.* in view

of admitted prior art.

As per claim 7, although *Delo et al.* fails to expressly disclose such use of a wake-on-

LAN function, such functionality is admitted prior art. Therefore, it would have been obvious to

one of ordinary skill in the computer art at the time the invention was made to modify the

process of *Delo et al.* to include such a wake-on-LAN function as an advantageous known means

of modifying a client PC.

### (10) Response to Argument

### (10.1) "Issue 1" (Appeal Brief at pp. 4-7.)

<u>Claim 1</u>

Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993); *see also In re Hiniker Co.*, 150 F.3d 1362, 1369, 47 USPQ2d

1523, 1529 (Fed. Cir. 1998) ("[T]he name of the game is the claim.").

Appellant argues that the claimed invention, "employs a low level service that <u>resides on</u>

<u>a remote server</u>, not on the computer, and which <u>executes locally</u> on the user's computer . . . and

thereby allows the service to execute on the local PC as a local, low level service **without**

**actually being stored/residing on the local PC**." (Appeal Brief at p. 4 (underlining in original;

boldface added for further emphasis).) The examiner maintains that this is not what claim 1

recites. Specifically, claim 1 recites that the "low level service" is "available in the operating

system of the client" and not necessarily stored on the server as appellant contends. (Claim 1.)

Similarly, the availability of the low level service <u>on the client,</u> (*Id.,*) does not suggest that this

service is in any way required to be downloaded from the server because the executable file is

merely recited as being "adapted for controlling" the local setup procedure/low level service.

Rather than requiring the low level service to reside on the server as appellant contends, claim 1

only requires that the "executable file" and "description file" be *from* the shared resource, and

the executable file being "associate[ed]" with the client. (*Id.*) The plain language of claim 1

does not even require that the executable file stay on the shared resource or be executed on the

shared resource, only that it, again, is "associated from" the shared resource and "adapted for

controlling" the <u>local</u> setup procedure. (*Id.*) The language of claim 1 does not preclude local

execution of a file to control a local low level service for controlling the local setup procedure.

(*Id.*)

Appellant further argues that, "Delo does not permit the <u>automatic</u> launching of a local

setup procedure . . . because the user of Delo must first launch the Windows Installer by double

clicking an icon or such." (Appeal Brief at pp. 4-5.) The examiner disagrees. What the user of

the Delo system is actually doing by double clicking an icon is attempting to launch an

advertised application that appears to the user to be already installed on their machine, and if the

application is not, in fact, installed on the machine, then a local setup procedure is <u>automatically</u>

launched. *E.g.*, *Delo* at col. 8, lines 59-64 (advertised applications appear to be already

installed); col. 9, line 62, through col. 10, line 3 (the user attempts to activate the application, and

the MSI mechanism can install the application if it is not already locally installed); col. 11, lines

24-58 (in particular, lines 50-52 explain that the installation is "essentially invisible to the

requesting user").

The plain language of claim 1 is anticipated by *Delo*:

Associating an executable file from a shared resource on a network with the

remote client at the direction of an administrator console on the network. *E.g.*, Delo at

col. 7, lines 61-67 (the administrator uses application deployment editor 78 to select an

application package 80, causing an advertise script 82 (a file) to be generated and stored

for one or more groups of users or machines in a group policy template object 62 of

Active Directory 66) and col. 8, lines 18-58 (executable shortcuts and shell/OLE

activation information necessary to launch the application are transferred to the client as

part of the advertisement operation).

The executed file being adapted for controlling a local setup procedure under the

form of a low level service which is available in the operating system of the client for

local background tasks and routines. *E.g.*, *Delo* at col. 8, lines 18-58 (advertisement

information 88 including shortcuts on the Start Menu and registry entries required for

shell and OLE activation are created in accordance with the advertise script) and col. 11,

lines 24-58 (when the user attempts to activate an advertised application, the operating

system 35 communicates with the managed software installer mechanism 84b to carry out

necessary local installation).

The executable file further being associated with a description contained within a

description file present on the shared resource. *E.g.*, *Delo* at col. 8, lines 18-58 (the

advertisement information (executable shortcuts and shell/OLE activation information) is

associated with (generated according to) advertise script file 82 (a description file)).

Starting said executable file so that it becomes available to said remote client as a

local low level service and permits the automatic launching of a local setup procedure in

accordance with the contents of said description file. *E.g.*, *Delo* at col. 8, lines 18-58

(the managed software installer API 84b (a local low level service) is called when an

application is activated (executed) to install one or more components automatically (and

in a manner transparent to the user) to service the activation request).

Claims 2, 8, and 9

Appellant merely argues that claims 2, 8, and 9 follow the "same basic approach" of

claim 1. (Appeal Brief at p. 6, last paragraph.) For at least the reasons set forth above with

regard to claim 1, the examiner respectfully submits that the rejection of claims 2, 8, and 9

should be affirmed.

Claims 3 and 4

Appellant merely argues that claims 3 and 4 depend from claim 2. (Appeal Brief at p. 7,

first paragraph.) For at least the reasons set forth above with regard to claims 1 and 2, the

examiner respectfully submits that the rejection of claims 3 and 4 should be affirmed.

**(10.2) "Issue 2" (Appeal Brief at p. 7.)**

Claim 5

Appellant merely argues that claim 5 depends from claim 2. (Appeal Brief at p. 7.) For

at least the reasons set forth above with regard to claims 1 and 2, the examiner respectfully

submits that the rejection of claim 5 should be affirmed.

**(10.3) "Issue 3" (Appeal Brief at p. 7.)**

Claim 6

Appellant merely argues that claim 6 depends from claim 2. (Appeal Brief at p. 7.) For at least the reasons set forth above with regard to claims 1 and 2, the examiner respectfully submits that the rejection of claim 6 should be affirmed.

**(10.2) "Issue 4" (Appeal Brief at pp. 7-8.)**

Claim 7

Appellant merely argues that claim 7 depends from claim 2. (Appeal Brief at p. 8.) For at least the reasons set forth above with regard to claims 1 and 2, the examiner respectfully submits that the rejection of claim 7 should be affirmed.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.
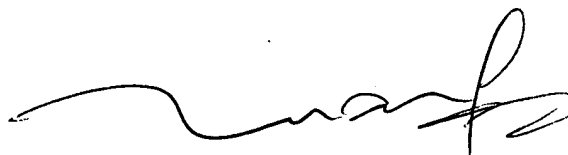
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

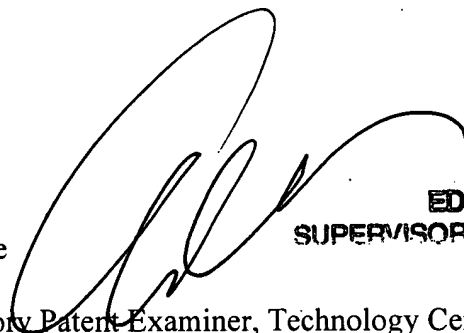Eric B. Kiss        *EBK*

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